

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

LYDIA BERRY

PETITIONER

v.

No. 1:23CV26-SA-JMV

STATE OF MISSISSIPPI

RESPONDENT

CERTIFICATE OF APPEALABILITY

The court has entered a final judgment in a *habeas corpus* proceeding in which the detention complained of arises out of process issued by a state court under 28 U.S.C. § 2254, or in a proceeding under 28 U.S.C. § 2255 or § 2241, and the court, considering the record in the case and the requirements of Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c), finds that **a certificate of appealability should not issue.**

For the reasons stated in its opinion, the court finds that the Petitioner has failed to “demonstrate that the issues are debatable among jurists of reason; that a court could resolve issues in a different manner; or that the questions are adequate to deserve encouragement to proceed further.” *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4, 103 S.Ct. 3383, 3394 n.4, 77 L.Ed.2d 1090 (1993) (superseded by statute) (citations and quotations omitted); 28 U.S.C. § 2253(c) (1) and (2).

Specifically, the court finds, for the reasons set forth in its memorandum opinion and final judgment, that the instant petition for a writ of *habeas corpus* should be dismissed with prejudice and without evidentiary hearing as untimely filed.

SO ORDERED, this, the 21st day of February, 2024.

/s/ Sharion Aycock

U. S. DISTRICT JUDGE